

Appl. No.: 09/992,121  
Office action Dated: 04/13/2006  
Response Dated: 10/12/2006

## Remarks/Arguments

### Office Action Summary

#### Status.

1. This *RESPONSE B* is in answer to the Office communication mailed 04/13/2006.
2. The Office communication is final.
3. NA

#### Disposition of Claims.

4. Claims 1 - 7 are pending in the application.
5. No Claims have been allowed.
6. Claims 1 - 7 stand rejected.
7. NA
8. NA

#### Application Papers.

9. NA
10. The drawings as previously amended have been accepted.
11. NA

#### Priority under 35 U.S.C. § 119.

12. NA

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### **DETAILED ACTION**

1. Claims 1-7 were originally presented.
2. Claims 1-7 stand rejected.
3. Claims 1-7 as amended by this RESPONSE B are presented for reconsideration and examination.
4. The application was not found in condition for allowance.

### ***Information Disclosure Statement***

5. The IDS filed was accepted by the Examiner with the exception that the article by Timmins was illegible and not considered by the Examiner. Applicant has made diligent search for a more legible copy and has not been able to obtain one. Web searches and attempts at contacting the author were unproductive. Applicant found the illegible copy in files with other references submitted in the IDS and hence believe the copy of the Timmins article submitted was reviewed prior to filing the application; but also believes, as far as can be understood from the illegible copy, that the article adds no information more relevant than the other articles in the IDS submitted.

### ***Response to Arguments***

6. The Examiner presented new grounds of rejection and found Applicant's prior arguments therefore moot.

### ***Response: Drawings***

7. The drawings were accepted.

### ***Response 35 USC § 112***

8. The 35 USC § 112 rejection was withdrawn.

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### ***Claim Interpretations***

9. The Examiner makes the following argument in support of “Claim Interpretations” which the Examiner concludes are necessary to support the rejections imposed by the Examiner latter in the Office action:

9.1.

*The mere ability or enablement to be used for the performance of a function does not necessitate the performance of such function or such use. Therefore, if an art does not explicitly prohibit the performance of a function it inherently is enabled to perform the function and its use.*

9.2. The first sentence of the Claim Interpretations by the Examiner as quoted in Section 9.1 is misleading and incomplete. The *ability or enablement* of a function will be considered by those of ordinary skill in the art to imply that at times and under the proper circumstances **the function necessarily will be used**. Therefore, the first sentence of the Claim Interpretations is wrong in suggesting that *ability or enablement* does not imply **use** to those of ordinary skill in the art. If a function is never to be used, those of ordinary skill in the art would not bother to provide for the *ability or enablement* of such a function.

9.3. The second sentence of the Claim Interpretations, besides not logically following from the first sentence, is clearly wrong as can be readily understood with a simple example. The present invention and the art to which it pertains *does not explicitly prohibit the performance of the function* “perpetual motion” or the function “unpaged excess-9 random addressing”. According to the Claim Interpretations of the Examiner, however, the present invention must be construed to be inherently enabled to perform the function of “perpetual motion” or the function of “unpaged excess-9 random addressing” because those functions are not *explicitly prohibited*. Such a proposition, of course, is silly and the Examiner’s proposed “Claim Interpretations” is similarly without merit. Whether a function can be performed and when and under what conditions the function should be performed must be taught by the references

relied upon by the Examiner. A “Claim Interpretations” merely conjured up without any support in the references will not convert references or combinations of references that fail to teach a function into references that do teach the function.

9.4. The prior art either teaches a function (and when and under what conditions the function should be invoked) or it does not. The Examiner’s “Claim Interpretations” are not supported by any of the references and the Examiner’s “Claim Interpretations” do not convert prior art that does not teach a function into prior art that does teach a function.

***Claim Rejections - 35 USC § 102***

10. The Examiner in the Office action, page 3, asserts the essence of his position in applying Walters (‘593) to Claim 1 as follows:

“for each particular legacy instruction in a particular legacy block (col: 3 line: 54 to col: 4 line: 3; ***a legacy block can consist of a single legacy instruction***),”

10.1. The proposed amended Claim 1 (2<sup>ND</sup> AMENDED per B), recites that “each legacy block including a plurality of legacy instructions,” is now distinguished from the Examiner’s position that a single legacy instruction constitutes a legacy block.

10.2. Further, the Examiner in the Office action, page 3, asserts in the rejection that Walters (‘593) anticipates the Claim 1 elements as follows,

“organizing the particular translated instructions into one or more particular translated blocks (**col: 5 line: 29-30, col: 2 line: 28-31**),

linking the particular translated blocks into a particular linked group corresponding to said particular legacy block (**Fig 5 step 230, col: 4 line: 35-44; the map links the translated blocks to their corresponding legacy blocks; linked group ... hash table**).”

10.3. The proposed Claim 1 (2<sup>ND</sup> AMENDED per B) now incorporates the limitations of prior Claim 2 and recites that:

“said linking using a link in each particular translated block to point to a location of the next particular translated block of the particular linked group,”

10.4. This recitation as set forth in Section 10.3 is not present in Walters ('593). Rather, Walters ('593) only has a single block of translated instructions corresponding to a single legacy instruction. The Examiner's reliance on the Examiner's statement “a legacy block can consist of a single legacy instruction” cannot apply to Claim 1 (2<sup>ND</sup> AMENDED per B) which now recites “each legacy block including a plurality of legacy instructions”.

10.5. The Examiner's reliance on the code chunk map 180 of FIG 2 to teach the linking of Claim 1 is not proper. In Walters ('593), the chunk map 180 functions to indicate for each page, if the cache stores at least one code block corresponding to a non-native entry point instruction in the page. The linking, if any, of the Walters ('593) chunk map 180 is between an entry point instruction and a page. Walters ('593) is organized on page boundaries. By way of contrast, the present invention links from translated block to translated block in a group of such blocks irrespective of any page boundary.

10.6. By way of example in operation of Walters ('593), if an entry point instruction for a non-native instruction occurred on one first page and the translated instructions for that non-native instruction continued across the page boundary to the next second page, only the first page is marked in Walters ('593). By way of example in the present invention, one translated block in one page (or in two pages across a page boundary) links to another translated block in the same or a different page and so on from block to block.

10.7. The difference is further understood, by way of one example, when a cash flush instruction is executed. Walters ('593) only flushes the pages marked by the chunk map 180 and hence in the example described, Walters ('593) does not flush the translated instructions that continued across the page boundary to the next second page. In the present invention, each translated block in a group is linked and flushed irrespective of page boundary and **all** translated instructions in the group are purged when any are purged.

10.8. Claim 1 (2<sup>ND</sup> AMENDED per B) now incorporates the recitation,

“executing the particular translated instructions in the particular translated blocks by sequentially executing the linked group translated blocks.”

10.9. This recitation as set forth Section 10.8 of the proposed claim is not performable in Walters ('593). The linking, if any, in Walters ('593) is to identify pages and Walters ('593) has no disclosure relating to linked executable translated instructions linked in a linked group.

10.10. As per now cancelled Claim 2, the limitations have been incorporated into Claim 1 as discussed above in connection with Claim 1 (2<sup>ND</sup> AMENDED per B).

10.11. As per Claim 3 as discussed in Section 10.7 above and contrary to the Examiner's argument regarding Claim 3, Walters ('593) does not operate such that “**all** translated instructions in the group are purged when any are purged”.

10.12. As per Claim 5, the Examiner concludes that Walters ('593) “discloses the method ... wherein said legacy instructions are object code instructions compiled/assembled for a legacy architecture (**col: 1 line: 56 to col: 2 line: 4**). The Examiner's conclusion is not supported by (**col: 1 line: 56 to col: 2 line: 4**) relied upon by the Examiner. The (**col: 1 line: 56 to col: 2 line: 4**) reference by the Examiner is only referring to background information and is not describing the

Walters ('593) system. Regardless, Claim 5 is believed patentable for all of the reasons discussed above in connection with Claim 1 (2<sup>ND</sup> AMENDED per B).

10.13. As to Claim 7 (2<sup>ND</sup> AMENDED per B), all of the arguments and distinctions set forth above in connection with Claim 1 (2<sup>ND</sup> AMENDED per B) are believe applicable and are incorporated by reference here. Further, at least the elements in the preamble further characterized in the body of the claim provide patentable weight.

***Claim Rejections - 35 USC § 103***

11. Claims 4 and 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Walters (US 5,768,593) as applied to claim 1 and further in view of Scalzi (US 5,540,013). This rejection is respectfully traversed for the following reasons.

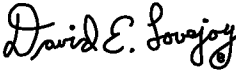
11.1. Claim 4 and Claim 6 are each dependent from Claim 1 and are believed patentable for all of the reasons discussed in connection with Claim 1 (2<sup>ND</sup> AMENDED per B).

11.2. Further, in rejecting Claim 4 and Claim 6, the Examiner apparently must rely upon the Claim Interpretations previously discussed in Section 9 and subsections thereof. As discussed therein, the Examiner's Claim Interpretations are not supported by the references and for this additional reason the rejection of Claim 4 and Claim 6 should be withdrawn.

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12. For all of the reasons above, reconsideration of all claims now in the application is requested.

Respectfully submitted,

	SIGNATURE	
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